

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 95-1005-C - ORDER NO. 95-1196<sup>97</sup>

JUNE 12, 1995

IN RE: Request of Farmers Telephone Cooperative, ) ORDER  
Inc. for Approval of Revisions to its ) ON  
General Subscribers Service Tariff (Area ) HEARING  
Calling Plan). )

This matter comes before the Public Service Commission of South Carolina (the Commission) on the April 9, 1995 request of Farmers Telephone Cooperative, Inc. (Farmers or the Company) for approval of revisions to its General Subscribers Service Tariff. The purpose of the filing is to introduce the Company's Area Calling Plan Service. As per the instructions of the Executive Director, notice of the matter was published one time in a newspaper of general circulation. The return date has expired and no Petitions to Intervene or Protests have been received.

The matter is a non-optional Area Calling Plan Service. Being non-optional, the matter is therefore one which affects the telephone utility's general body of subscribers. Section 58-9-520 requires the Company to give the Commission not less than thirty (30) days notice of its intention to file a schedule setting forth proposed changes and/or new rates or tariffs. S.C. Code Ann. §58-9-540 states that: "Whenever there is filed with the Commission by any telephone utility a schedule setting a new rate or rates which affect the telephone utility's general body of subscribers, the Commission shall, after notice to the public such

as the Commission may prescribe, hold a hearing concerning the lawfulness or the reasonableness of the rate or rates, provided, however, that when the proposed rate or tariff is a proposal to institute or modify an offering or regulation that is not part of the general rate case and does not affect the telephone utility's general body of subscribers, the Commission may approve such a filing without a hearing..."

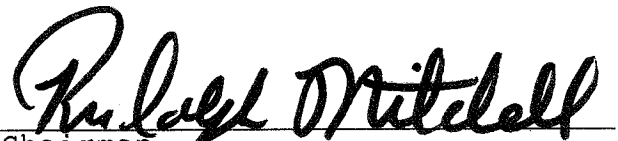
Clearly, as stated above, the tariff filing by Farmers affects the general body of subscribers. Therefore, under Section 58-9-540, a hearing is required. Further, the Commission would hold that, although a letter giving thirty (30) days notice must be filed with the Commission, no new tariff filing need be filed with the Commission in this case. However, Farmer's must notify all its customers of the filing. Subsequent to the expiration of the thirty (30) days of notice, the matter shall be set for hearing as filed on such date as the Commission Staff may deem appropriate.

IT IS THEREFORE ORDERED THAT:

1. Thirty (30) days notice shall be given. Farmer's shall notify its customers of the filing. A hearing shall then be held on the request of Farmers Telephone Cooperative, Inc. for approval of revisions to its General Subscribers Service Tariff, the purpose of which is to introduce the Company's Area Calling Plan Service.
2. The hearing shall be set at such time as Staff may deem appropriate.

3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)

DISSENT OF COMMISSIONER C. DUKES SCOTT  
CONCURRED IN BY COMMISSIONER CECIL A. BOWERS  
FARMERS TELEPHONE COMPANY (DOCKET NO. 95-1005-C)

I respectfully dissent from the decision of the majority which delays the approval of a 50% rate reduction by requiring Farmers Telephone Cooperative (Farmers) to give thirty days Notice of Intent, to provide each individual customer with written notice of its request, and further, requiring that a formal hearing be held. According to the information presented, no customer can be harmed by the approval of this tariff. In fact, the customers who make Intra-Lata long distance calls using Farmers as their carrier will have their rates reduced by 50 percent. The local calling area which is presently in existence remains in existence. It is only some calls which are now long distance which are affected, and these calls are being reduced by 50 percent.

I understand that the Commission may be relying on §58-9-540 and 520. I am not convinced that this tariff "affects the general

body of subscribers" as contemplated by the Statute. At least two conditions must exist for the tariff to apply to a subscriber: 1) a subscriber must make an Intra-Lata call and 2) use Farmers as the carrier to complete the call. All customers do not make Intra-Lata calls, and even those that do can use a number of different carriers. The use of Farmers to complete an Intra-Lata call is optional on the part of the customer.

The tariff was filed on April 9, 1995. If the Commission was going to raise the issue, that was the time to do so, not two months later and after notice has been provided to the public. In addition, the thirty day Notice of Intent section is to allow the Commission and other potential parties time to prepare for a rate case filing prior to receiving the Application and the six month time limit beginning. That notice is not needed in this case where no audit or Staff time is contemplated.

Farmers provides good telephone service to its members at reasonable rates. The members are the owners and elect a Board of Directors which has approved this filing. The filing does not adversely affect a single member and helps all those who make certain long distance calls using Farmers.

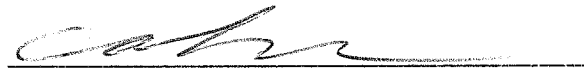
My position is supported by precedent. The Commission has, in other instances, even for investor-owned utilities, not required a formal public hearing with prefiled testimony and the resulting delay where a statute has called for a hearing.

The law should not be read in a manner which leads us to a result which can not be rationally supported. I believe, with all due respect, that the decision of the majority leads to such a


result when, after nearly two months, the Commission now delays the approval of a rate reduction by Farmers Telephone Cooperative, requires Farmers to give a 30 day notice, notice each individual customer, and go through the costs in time and money of a formal proceeding. Customers using Farmers to complete Intra-Lata calls will have to pay double the charges for an extended period of time due to the ruling of the majority and as a result of not raising the issue in a timely manner, that is, almost two months ago.

I would approve the tariff as filed. If some believe that more information is needed, I would request the specific information and allow Farmers to submit it in written form. However, I believe that Farmers, in its filing, and Staff have provided us with sufficient information to approve the tariff.

Respectfully submitted,

  
C. Dukes Scott  
Commissioner, Second District

I CONCUR:

  
Cecil A. Bowers  
Commissioner, Fifth District